



STAFF REPORT

TO: Planning and Zoning Commission

FROM: Audree Juhlin, Assistant Community Development Director

THROUGH: John O'Brien, Community Development Director

DISTRIBUTION: Housing Commission

MEETING DATE: December 1, 2009

SUBJECT: Accessory Dwelling Unit (ADU) Ordinance

Introduction

During the preparation of the Sedona Community Plan in 1990, the need and supply of affordable housing, how to integrate affordable housing into the community and how to encourage affordable housing development were all identified as critical issues. In 1998, a Housing Element was prepared and included as part of the 1998 Community Plan update. During the 2001-2002 Community Plan update, many residents in the community recognized that more affordable housing was needed in Sedona and that the City had not been proactive enough in making affordable housing available to those with low to moderate incomes.

The City Council has tasked the Housing Commission with identifying strategies to address affordable housing needs. Current unmet housing needs have contributed to the consideration of an accessory dwelling unit (ADU) ordinance as an important component of the Housing Commission's overall housing strategy. Allowing accessory dwelling units to be used for long-term rentals is a common practice across the country and has been demonstrated to be an effective strategy to address affordable housing needs. Communities have generally found that allowing the rental of ADUs has not substantially changed the character of their community or the livability of their neighborhoods.

ADUs can provide affordable housing options for people who struggle to find adequate housing suitable to their needs and personal financial situation in a community with a high cost of living. This includes the people that serve Sedona's residents and visitors (e.g. waiters, bank tellers, store clerks) extended family members, caregivers, and adult children. The Housing Commission believes that allowing for the long-term rental of ADUs is important to Sedona's affordable housing strategy; however, this strategy is just one tool to consider in addressing Sedona's affordable housing needs.

Overview of an ADU Program

Defining an ADU

ADUs are generally considered to be a small residential unit providing complete living facilities with provisions for living, sleeping, eating, cooking, and sanitation. They are built on the same lot as the primary single-family home and smaller in size. Because ADUs are often used by extended family members, they are also referred to as “in-law apartments” or “granny flats”. Allowing long-term occupancy of ADUs enables homeowners to offer separate living units to family members as well as providing additional rental options without significantly affecting the quality and character of the neighborhood. Because ADUs are typically smaller, they tend to be more affordable.

There are three basic types of accessory dwelling units:

- Interior - using an interior part of a single-family dwelling unit to create an ADU
- Attached - adding on to an existing single-family dwelling unit to create an ADU
- Detached - a structure that is separate from the primary single-family dwelling unit and located on the same property

Benefits Experienced by Other Communities with ADU Programs

The following are some of the more typical benefits listed by other communities who have adopted an ADU program:

Increase in rental stock

- ADUs may help increase the supply of available rental housing.

Utilizes existing housing stock

- The average size of today’s home has generally increased and ADUs can be easily accommodated within many larger homes.

Redevelopment

- ADUs require no additional land for development and use existing infrastructure.
- ADUs promote green building concepts (e.g. less commuting, less burning of fossil fuels, reduced carbon footprint)

Assists in preserving neighborhood character

- ADUs can help preserve the character of neighborhoods by reducing "mansionization" of existing built-out areas. If a homeowner’s needs change due to income, illness, retirement, etc. the homeowner has an option to stay in the home and rent an ADU rather than selling the home, which then could be demolished and replaced with a bigger home.
- ADUs help to encourage better housing maintenance.

Support service workers and entry-level jobs

- Many businesses rely on lower salary service and entry-level workers. ADUs provide lower-cost rentals for lower wage earners who help fill these jobs, live in the community, and support the local economy.

Support local businesses and expanding the local tax base

- Local businesses benefit from ADUs when there are more affordable housing options available for employees within the community, encouraging job stability and reliability.
- ADUs also provide affordable housing options for public employees, service workers, teachers, nurses, home health care professionals, seniors, and young families.

Homeowners benefit

- ADUs can help young families buy their first home.
- ADUs make it economically feasible for older people to age in place.
- Homeowners benefit from the additional rental income they receive. This additional income can be used to pay part of their mortgage payment, help with the upkeep on their home, or cover emergency repairs.
- ADUs provide housing options for people at various stages of life and income levels. The income from an ADU could mean the difference between a homeowner being able to stay in a home or being forced to move.
- ADUs can also increase housing opportunities for people with disabilities who can live independently in their home, but remain close enough to others who can provide them assistance.
- As families become smaller, a larger home is less likely to be fully occupied and the unused area can be converted to accommodate an ADU.
- Homeowners can exchange services for rent (e.g. caregivers, babysitting services, maintenance)

Renters benefit

- ADUs usually rent for less than average market rate levels because ADUs do not require the development of new land and are cheaper to build than conventional rental units. The smaller size also contributes to a lower rental amount.

Promote balanced transportation

- ADUs tend to attract persons who own fewer cars (e.g., the elderly, smaller families, and/or those of lesser means).

Other Communities that use ADUs to address Affordable Housing

Many communities across the country use ADUs as a viable means of providing affordable housing. Some community regulations are more restrictive than others. For example, nearly all communities require homeowner occupancy of the primary residential unit, but other requirements vary widely: Seattle, Washington allows homeowners who can present ‘good cause’ to live elsewhere for up to three years, while in Sunnyvale, California, the primary residence must be owner occupied for a minimum of 20 years. Communities that have ADU ordinances in place include, but are not limited to: Clarkdale,

AZ; Payson, AZ; San Francisco, CA; Oakland, CA; Santa Cruz, CA; Mercer Island, WA; Bellevue, WA; Bozeman, MT; Arvada, CO.

Mercer Island, Washington is a well-to-do retirement community. It is nearly built-out with little remaining vacant land, similar to Sedona. Finding space to construct new residential housing has been a challenge. As a result, Mercer Island implemented an ADU program to encourage small dwellings (maximum 900 square feet) as part of existing or new single-family home. Since 1995, over 170 new ADUs, both attached and detached, have been permitted in single-family residential zoning districts. Mercer Island contributes its success to streamlining the ADU permitting process, comprehensive public outreach and information efforts, and low fees for ADU permits.

Overview of Proposed Ordinance

In drafting an ordinance that allows for the long-term rental of ADUs, the challenge for staff was to find the right balance between Sedona's need for more affordable housing options and the desire to preserve the quality of residential neighborhoods. In response to the concerns expressed during the public outreach process, staff prepared the October 23, 2009 draft ordinance. The general intent of the draft ordinance is to help mitigate neighborhood concerns by controlling the number of ADUs created, minimizing neighborhood change, and upholding design and development standards.

The draft ADU ordinance proposes to establish provisions for the long-term rental of ADUs. The proposed ordinance does not significantly affect the current regulations for guest houses. Guest houses are defined in the Land Development Code as "accessory buildings with one or more rooms used solely as the temporary dwelling of the guests of the occupants of the premises and not rented or used for supplemental income." The proposed ordinance generally defines accessory dwelling units as a second dwelling unit that is located on the same parcel as the primary single-family dwelling unit; is smaller in size to the primary home and provides basic requirements for living, sleeping, eating, cooking, and sanitation and cannot be rented for less than 90 days.

Proposed changes to the Land Development Code include, but are not limited to:

Article 2 (Definitions)

- Revises the definition: "Accessory Living Quarters"
- Adds a new definition: "Accessory Dwelling Unit"
- Revises the definition of "Family" to clarify no more than 4 unrelated adults on a single residential lot

Article 6, District (Regulations)

- Proposed amendments are applicable to the following single-family districts: RS-5a, RS-70, RS-36, RS-35, RS-18a, RS-18b, RS-12, RS-10a, RS-10B, RS-6, RMH-12, RMH-10, and RMH-6.
- Revises "Permitted Uses and Structures" for a Guest House and adds a new category, "Accessory Dwelling Unit"

Article 9, (Development Standards)

- Adds a new section 918, Accessory Dwelling Units establishing purposes, regulations and application review procedures and enforcement provisions.

An overview of the provisions in the new section 918 is as follows:

- Restricts the number of ADUs to one per residential lot
- Does not allow mobile homes, travel trailers and recreational vehicles to be used as a detached ADU
- Requires the property owner to occupy either the primary dwelling unit or ADU
- Establishes minimum and maximum size requirements based on the overall size of the primary dwelling unit
- Meets development, design and building requirements
- Designed to preserve or complement the architectural design, style and appearance of the primary structure
- If an ADU has a separate entrance, the entrance needs to be located on the side or rear of the structure wherever possible
- A minimum of one parking space is required but no more than two parking spaces
- Restricts the total occupancy of both the primary dwelling unit and the ADU to what is currently allowed (no more than 4 unrelated adults) based on the definition of a “Family” in the Land Development Code
- Prohibits the rental of an ADU for less than 90 days

Draft Ordinance and Community Input

This draft was based on model and other community ADU ordinances. Working with the Housing Commission and the Planning and Zoning Commission, staff first put forth a draft ordinance in January 2008. A number of community outreach opportunities were provided in 2008 including informational tables at the library, presentations to local civic/community organizations (6 presentations), community forums (2 held), informal public discussion sessions (7 held) and public hearings/meetings held in conjunction with a proposed Community Plan text amendment (6 held).

During this outreach period, the City received a wide range of input. Many citizens expressed concern that the draft ordinance was not restrictive enough and did not provide neighborhood protection. Some of the concerns expressed included decrease in property values, parking and traffic issues, increased density, increased crime, negatively affecting neighborhood character, short-term vacation rentals, and noise and other nuisance related issues. Additionally, citizens felt that the City has not demonstrated adequate code enforcement measures to date and subsequently felt that the draft ordinance needed to provide for more proactive code enforcement. Based on these comments and concerns received regarding the January 2008 draft, staff prepared a second draft ordinance that included more restrictive provisions.

In the spring of 2009 the revised draft was presented to the Housing Commission, the Planning and Zoning Commission and it was made available for public review and comment. Again the City conducted a number of public outreach opportunities on the June 2009-revised draft version. These included formal community meetings (3 held), informal public discussion sessions (2 held), focus groups (8 held), presentations to local civic/community organizations (8 presentations) and public meetings (over 10 held).

During the 2009-outreach efforts, the City received comments from many of the citizens who provided comments during the 2008 process opposing the concept in general. However, the 2009-revised draft received more overall support than the 2008 version. Although citizens continued to express concern about issues raised during the 2008-outreach process (e.g. crime, decreased property values, parking, etc.) new concerns regarding the draft's restrictiveness were expressed as part of the 2009-outreach efforts. Many comments suggested that the latest version did not support the overall purpose of an ADU ordinance and the high fees served more as a disincentive. Additionally, some organizations and individuals who had previously supported the ADU concept in general could no longer support the concept because of the high fees and what was described as the restrictive nature of the 2009 draft.

Citizen Comments and Concerns

The following highlights some of the major areas of citizen comments and concerns. An overall summary of the comments received was distributed in the Planning and Zoning Commission's October 29, 2009 work session packet.

Homeowner Opposition

It appears that the opposition to the ADU ordinance focused on two main areas: 1) lack of support for affordable housing in general; and, 2) neighborhood concerns about the perceived impacts of an ADU program with respect to property values, density, changes in neighborhood appearance and character, increased parking and general nuisances associated with rental property.

Homeowner Support

Some residents who support the ADU concept indicated that it is important to reduce the restrictive regulations and argue that, if the controls are too restrictive, some property owners will not be able to create an ADU. Some residents who support the ADU concept did, however, express specific concerns regarding the high fees and overly burdensome annual reporting and inspection requirements. These residents also encouraged the City not to include review procedures that are cumbersome such as the City's conditional use permit process that involves a public hearing. In addition to the fees associated with this process, they pointed out that many property owners might be intimidated by or unwilling to go through a lengthy public review process.

Need and Demand for ADUs

Some residents also questioned the need for affordable housing in Sedona and the demand for rental units in general. Staff contacted local property management companies and apartment owners who indicated a high demand for apartment-type rentals. Several apartment owners stated that they maintain an on-going waiting list.

Additionally, in evaluating this strategy, consideration was given to the fact that Sedona's rental inventory makes up less than 4% of the housing options in Sedona, while the State average exceeds

20%. The 2006 Baseline Housing Report supports the need for additional rental units and a need for units available to single-person households.

Will density in Sedona double?

Another question that came up repeatedly in discussions regarding ADUs concerned the number of units that are likely to be built. Residents opposed to allowing the long-term rental of ADUs expressed concern that the City would experience a “flood of applications” for ADUs resulting in too many units. In response to these concerns, the current version under consideration recommends that no more than 88 units (based on one percent of the projected build out number) could be built. The proposed ordinance recommends that no later than five years after the effective date of the ordinance or when 88 newly constructed ADU permits are issued by the City, whichever occurs first, the ordinance would sunset and could not continue without review and consideration by the Planning and Zoning Commission and approval by City Council. Staff’s research indicates that based on the experience of other communities that have legalized ADUs the actual number of new ADUs are likely to be relatively low. One national survey involving 47 communities suggests that communities that allow for the rental of ADUs can expect approximately one new ADU per 1,000 single-family homes per year.

Another significant factor controlling the number of potential ADUs is the fact that many Sedona homeowner associations prohibit the rental of this type of dwelling unit. The exact number of homeowner associations is not known, as this information is difficult to obtain, as the City does not maintain a list of subdivision CC&Rs.

Owner Occupancy Requirements

Another common concern expressed was that ADUs would negatively affect the single-family character of a neighborhood particularly if the homeowners and/or the renters did not adequately maintain the property. Concern was also expressed that speculators would purchase more than one home and construct an ADU and create undesirable consequences. In response, the draft ordinance requires that the homeowner must occupy either the primary dwelling unit or the ADU. This regulation is a common component in most ADU ordinances. It is based on the premise that homeowners who live on site are more likely to adequately maintain the property. Another expectation of the owner-occupancy requirements is a higher likelihood of ensuring better overall management, as the homeowner is less likely to allow inappropriate or less desirable behavior (e.g. loud parties). Also, by limiting ADUs to owner-occupied homes, it is unlikely that individual speculators could create multiple ADUs.

Design/Appearance Standards

Staff has included provisions that guide the design and appearance of homes with ADUs to help preserve the single-family visual character of neighborhoods. These provisions are commonly found in other communities who have ADU ordinances. The provisions help to ensure that an ADU

maintains similar architectural design standards as the primary unit and is designed to appear as much as possible like a single-family home by restricting the location of entrances and exterior stairs.

Parking Requirements

One of the more common concerns expressed throughout the ADU public outreach process centered around parking issues. Residents who were generally opposed to the ADU ordinance, expressed concern that the additional parking generated by the ADU would negatively affect prevailing aesthetic standards and expectations. To help minimize parking issues, the draft ordinance recommends that at least one but no more than two off-street parking spaces be designated for an ADU. This is a typical requirement found in other community regulations.

Another concern expressed by residents is that additional off-street parking may be provided in a way that will detract from a neighborhood's single-family character. As a solution, staff has included language to limit visual impacts by requiring solid screening from adjoining properties if parking is located in any portion of the interior side and/or rear setbacks. Solid screening includes solid walls, fences, landscaping or grade differences subject to review and approval of the Director. Additionally, the Planning and Zoning Commission at their October 29, 2009 work session directed staff to include language requiring a parking plan to be included as part of the application submittal and approval process.

Fees

Staff received concerns from many residents both for and against the ADU concept regarding the high cost of fees associated with the creation of an ADU. As proposed in the June 2009 draft, a property owner could expect to pay over \$15,000 in fees (development impact fees, sewer capacity fees and building permit and inspection fees). As a result of the comments received about the high fee costs, staff has revised the latest draft to minimize associated fees: An ADU would be subject to all building and inspection fees (approx. \$2,000 based on total square footage) and a sewer capacity fee calculated on half an equivalent residential unit (1/2 ERU = approx. \$2,700). Roughly, this would calculate to approximately \$4,700 in total fees for the building permit and sewer capacity fees. As proposed, ADUs would be exempt from development impact fees.

Illegal ADUs

Research indicated that other communities with an ADU ordinance also include incentives for the owners of illegal units to legalize them and to bring them up to minimum health and safety requirements. One of the more common options for encouraging legalization of existing illegal units is the provision to waive any fines or enforcement actions for homeowners who apply for a permit within a certain period (e.g., six months) following adoption of the ordinance. Another incentive provides owners of illegal units who apply for a permit within the grace period some leeway on minor violations of ADU regulations such as size, setback, parking, and other requirements where full compliance would be impractical. However, in speaking with planning staff in other communities, these types of provisions have not been very successful in achieving their intended goals. Communities indicated that this is one area where they have yet to find an approach that works.

Research indicates that there may be a number of the reasons why other jurisdictions only experience limited success in getting owners of illegal units to come forward. Property owners of illegal units may prefer not to legalize their units because of the potential for increased property taxes, income taxes, building permit and other related fees and the actual costs of bringing a unit into compliance with building codes.

Staff has drafted the ADU proposal with a one-year grace period that would suspend any code enforcement action and/or associated fines, and, would waive building permit fees for owners who come forward to legalize their accessory unit. Staff has also included language that allows for flexibility in applying the development standards proposed for the creation of new ADUs.

Enforcement

Public comments on the 2008 draft indicated that the ordinance was weak in its enforcement provisions and that some type of periodic renewal of an ADU should be required to allow for closer monitoring of ADUs over time. It was also felt that this requirement would help to ensure that any conditions of approval and zoning requirements continue to be met. This type of provision was included in the June 2009 draft. However, many residents who support the ADU ordinance felt that these provisions were too restrictive and suggested that ADUs should be treated in the same manner as any other single-family or multi-family units. Another concern regarding the annual renewal of ADU permits, periodic inspections and increased pro-active code enforcement measures was that these requirements might facilitate the need for additional staff and resources.

Several Planning and Zoning Commissioners and Housing Commissioners also had concerns about the nature of these provisions. Staff agreed that these provisions might be overly burdensome on homeowners and had concerns that these provisions might act as a deterrent from homeowners coming forward to legalize existing illegal units as well as be more of a disincentive for the creation of new units. As a result, staff has removed the requirement for the annual permit renewal and instead rely on complaints and code enforcement staff observations to ensure continued compliance. In researching this topic, this approach appears to be the most common.

Overall, enforcement of an ADU ordinance will follow the same process as applied to any other City code. Staff will investigate all complaints received regarding a possible violation in accordance with all applicable procedures, remedies and enforcement actions. Staff has included language in the enforcement section that allows the Community Development Director the ability to revoke an ADU permit if the conditions of approval are not maintained or the property owner is convicted of a code violation related to the ADU. As suggested by the Planning and Zoning Commission at their October 29, 2009 work session, language has been added to this section requiring that the property owner make every reasonable effort to correct the concern or violation in a timely manner.

Annual Report to Council

Staff has included an annual reporting requirement by the Community Development Director to the City Council on ADU permit applications. This provision is included to help staff and Council

monitor any impacts that ADUs may have in the community. Annual reporting provisions also give staff and Council members the opportunity to review and address problems related to ADUs.

Recommendation

Some Sedona residents view ADUs as a threat to the stability of their neighborhoods, are opposed to allowing ADUs, or ask that regulations closely control ADUs to avoid potential negative impacts. However, other residents who support the ADU concept ask for a less restrictive ordinance. For these reasons, staff has worked to balance resident concerns with the need for more affordable housing options. Staff feels the latest draft meets the most important goals to protect property values and neighborhood stability, and, to preserve the single-family character of neighborhoods while providing affordable housing options.

Staff supports the proposed Accessory Dwelling Unit ordinance. Staff believes that ADUs can be integrated into a variety of architectural styles without affecting neighborhood character. Staff believes that ADUs can help increase Sedona's supply of affordable housing and enhance the social stability and mix of neighborhoods with little or no negative impact on the character of the neighborhood. Research demonstrates that ADUs effectively improve the affordability of housing for both homeowners and renters at all stages in their lives and promote diversity in our community. ADUs also help to maximize use of existing public infrastructure and reduce the pressure on open space from sprawling development.

The Housing Commission has reviewed the October 2009 draft and concurs with the suggestions made at P&Z's October 29, 2009 work session. The Housing Commission has made some additional suggestions to the draft ADU ordinance as follows:

Definitions (Article 2)

- Delete the sentence: "~~Mobile homes, travel trailers, and recreational vehicles cannot be used as ADUs~~" from the definition. There was concern that the owner of existing mobile homes would not be able to add onto or create an ADU within their mobile home based on this language.

District Regulations (Article 6)

- Delete the word: "Exception" in item "e". "~~Exception.~~ A guest house may be converted to an Accessory Dwelling Unit (ADU)..." The Housing Commission felt the remaining sentence adequately described its intent without need of the qualifying word "exception".

Development Standards (Article 9)

- 918.02 Creation – Revise item "A" to read as follows: "Converting **an existing structure** ~~living area or garage area~~".
- 918.03 Criteria – Delete item "D" in reference to home occupations. As revised, the language no longer made sense based on existing code language.
- 918.04 Development Standards – Revise item "D" "Mobile homes, travel trailers and recreation vehicles shall not be used as **a detached** ADU". There was concern that the owner of an existing mobile homes would not be able to add onto or create an ADU within their mobile home based on this language.
- 918.04 J. Size standards for ADUs, item #3: Add the following language: "**For existing structure conversions,** the Director may allow a lesser or greater amount of floor area for the

ADU...” This clarifies that this discretion is for existing structures not for the creation of new ADUs.

- 918.06 Conditions of Approval “F” – replace the word “establish” with “create”. F. “The City may require the owner to remove any improvements added to ~~establish~~ **create** an ADU in the event that any condition of approval is violated.”

General Comments:

- Restructure Criteria and Development Standards sections into one overall section called “Requirements” with the criteria and development standards as subsections.
- Be consistent with the term Director and Community Development Director, use one term.

Possible Motions:

I move to recommend approval of the Accessory Dwelling Unit ordinance proposal dated December 1, 2009 as outlined in staff’s report.

I move to recommend approval of the Accessory Dwelling Unit ordinance proposal dated December 1, 2009 as outlined in staff’s report including the Housing Commission’s recommended changes.

I move to recommend denial of the Accessory Dwelling Unit ordinance proposal dated December 1, 2009.

Attachments:

- Revised December 1, 2009 Draft Accessory Dwelling Unit Ordinance